

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

MARK MARTIN,

Plaintiff,

:

Case No. 3:08-cv-282

-vs-

District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz

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WILLIAM WHITE, et al.,

Defendants.

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**REPORT AND RECOMMENDATIONS**

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This case was filed August 11, 2008. Under Fed. R. Civ. P. 4(m), a case must be dismissed if service of process is not completed within 120 days of filing; that date in this case is December 9, 2008. As of that date, Plaintiff had not obtained service or filed proof of service on any Defendant except Daniel Dobson. As to Dobson, service was purportedly completed on October 7, 2008. Dobson has not filed an answer, but Plaintiff has also done nothing to obtain a default judgment against Dobson.

It is accordingly recommended that this case be dismissed without prejudice for want of prosecution.

December 10, 2008.

s/ **Michael R. Merz**  
United States Magistrate Judge

**NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for

the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6<sup>th</sup> Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).